

Ensuring Access to Cancer Treatment

The Issue

The MMA changed the payment amount for drugs administered in physician offices to 106% of the manufacturer's average sales price ("ASP"). ASP is adjusted quarterly based on information collected from the manufacturers from the second previous quarter (e.g. the 4th quarter ASP is based on 2nd quarter data). Since the ASP includes sales to all buyers, including very large buyers, and lags actual prices by several months, it does not necessarily reflect prices available to physician practices. In addition, the calculation of ASP includes prompt pay discounts offered by manufacturers to wholesalers and distributors that are not passed on to oncology practices. The result is that the ASP-based payment amounts are less than the prices actually available to physician practices or so-called "underwater" drugs.

Including prompt pay discounts in the ASP calculation threatens community oncology practices by artificially lowering the reimbursement rate for chemotherapy treatments causing practices to buy drugs for higher rates than they are getting reimbursed. This is a problem which the statute does not permit the Centers for Medicare & Medicaid Services ("CMS") to fix.

Access Issues

The American Society of Clinical Oncology and others have reported that many practices cannot afford to administer drugs that are "underwater." In many cases those patients are being sent to the hospital where the drive and wait time for the patient are often longer. We have heard of some cases where the hospitals are not accepting those patients for a variety of reasons. This is a potential access issue that can be easily fixed.

H.R. 905/S.733

H.R. 905 and S. 733 would remove prompt-pay discounts extended to wholesalers from the ASP calculation. Removing prompt pay discounts would ensure that all physicians can purchase a drug for a price within the Medicare payment amount. This change would help align payment rates with market prices available to physicians and would likely reduce the number of payment adjustments that CMS would need to make under the exceptions process.